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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/921,629
Filing Date: August 03, 2001
Appellant(s): LEVENSON ET AL.

MAILED

DEC 01 2006

GROUP 3600

Dennis M. Carleton
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed August 17, 2006 appealing from the Office action mailed March 22, 2006.

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(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

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(8) Evidence Relied Upon

2003/0120571 A11	Blagg	6-2003
6,581,035 B1	Madan et al.	6-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-5, 7-9, 11-23 and 25-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Blagg (US 2003/0120571 A1).

As per the following claims, Blagg discloses:

1. A system for the payment of petty cash disbursements comprising:

- one or more master purchasing card accounts linked to a bank account (¶0055-0056, 0069, 0072, linking accounts; ¶0062, issuer is typically a financial institution or bank); and
- one or more subordinate purchasing card accounts linked to one of said master purchasing card accounts or to other subordinate purchasing card accounts linked, directly or indirectly, to one of said master purchasing card accounts (¶0071-0075, 0090-0094, dependent linked accounts); wherein the owner of said bank

account may authorize the transfer of funds to any master purchasing card account to cover purchases made using that master purchasing card account or any subordinate purchasing card account linked to that master purchasing card account (§0075-0078, 0104, 0126); and wherein the owner of any of said purchasing card accounts may authorize the movement of funds from its own account to any subordinate purchasing card account having a link thereto (§0134-0142, authorizing a transaction; 0143-0154, applying a payment).

2. The system of claim 1 wherein each of said purchasing cards has an expenditure limit (§0016).
3. The system of claim 1 wherein any of said purchasing cards may create and break links to or from subordinate purchasing cards (§0080, 0085, de-linked account).
4. The system of claim 2 wherein requests for the modification of the said expenditure limit for any subordinate card and the authorization of said modification can be accomplished in real time (§0136).
5. The system of claim 4 wherein said requests and said authorizations are facilitated by a web site available over the Internet (§0059-0062).
7. The system of claim 2 further comprising a software application running on a computer system (§0058-0059).

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8. The system of claim 7 wherein said software application may establish communications with outside entities (§0058-0059).

9. The system of claim 8 wherein said communications with outside entities are: encrypted prior to sending and decrypted after receiving to ensure data integrity and security; and entered into a log file for audit and customer support purposes (fig 7B, 754-760, authorization and approval).

11. The system of claim 9 wherein said software application establishes communication with a bank, said bank maintaining said bank account (§0062, 0063).

12. The system of claim 11 wherein said software application initiates a transaction at said bank to move funds between said bank account and said purchasing cards to cover expenditures made using said purchasing cards (§0016, 0035, 0104, 0126).

13. The system of claim 9 wherein said software application establishes communications with a credit card processor (§0058).

14. The system of claim 13 wherein said software application can instruct said credit card processor to modify said expenditure limit for any of said purchasing cards (§0062, 0121, 0136, 0153, 0181).

15. The system of claim 13 wherein said credit card processor exchanges data with said software

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application, said exchange data advising said software application of purchases made using any of said purchasing cards (§0129-0131, data exchanged/updated).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 24 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blagg (US 2003/0120571 A1), in view of Madan et al., U.S. Patent 6,581,035 B1.

Blagg discloses a system/method/computerized system wherein one or more master purchasing card accounts linked to a bank account (§0055-0056, 0069, 0072, linking accounts; §0062, issuer is typically a financial institution or bank); and one or more subordinate purchasing card accounts linked to one of said master purchasing card accounts or to other subordinate purchasing card accounts linked, directly or indirectly, to one of said master purchasing card accounts (§0071-0075, 0090-0094, dependent linked accounts); wherein the owner of said bank account may authorize the transfer of funds to any master purchasing card account to cover purchases made using that master purchasing card account or any subordinate purchasing card account linked to that master purchasing card account (§0075-0078, 0104, 0126); and wherein the owner of any of said purchasing card accounts may authorize the movement of funds from its own account to any subordinate purchasing card account having a link thereto (§0134-0142, authorizing a transaction; 0143-0154, applying a payment).

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Blagg does not explicitly disclose the use of voice recognition software and technology to accomplish such transactions.

Madan et al., however, teaches a system and method for voice-enabled transactions wherein user instructions, commands and ultimately transactions can be accomplished utilizing the user's voice (see abstract; figure 2 and associated text). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Blaggs' system and method for performing financial transactions to utilize Madan's voice-recognition mechanism to provide another method of identity verification and authentication so as to provide an additional means to prevent fraud, especially with regards to financial transactions, as per teachings of Madan et al.

Claims 16-27, 29 and 30 are directed to a system and method as recited above and are similarly rejected.

Although the Examiner has pointed out particular references contained in the prior art(s) of record in the body of this action, the specified citations are merely representative of the teachings in the art as applied to the specific limitations within the individual claim. Since other passages and figures may apply to the claimed invention as well, it is respectfully requested that the applicant, in preparing the response, to consider fully the entire references as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior arts or disclosed by the examiner.

(10) Response to Argument

Appellant's brief filed with regards to the above referenced claims have been fully considered but they are not persuasive. The examiner respectfully requests that the rejection be affirmed as to all claims.

Claim 1

Appellant argues that the cited reference (Blagg, US 2003/0120571 A1) does not disclose the linking of master purchasing accounts to a bank account (brief p.8)." Blagg discloses that a key account (master purchasing account) is linked to a dependent account (bank account) [Blagg, 0069]. In one of the embodiments of Blagg, for instance, a VISA account held by a mother designated as the key account is linked multiple dependent accounts separate from the key account and each other for each child. *Id.*

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "there is no mention of the cards in Blagg being linked to a bank account different from the account present for each individual card") are not recited in the rejected claim (brief at 8). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Regardless, Blagg discloses that accounts can cross product line and therefore accounts, i.e., VISA and MASTERCARD accounts [0074].

Appellant further contends, "no financial institution currently allows the linking of an individual credit card account to a bank account (brief at 8)." In response to Appellant's

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declaration, the examiner submits that Visa check/debit cards have been in use for years and linked to bank accounts.

Appellant further misstates the teachings of Blagg by conceding that even though “Blagg does teach a Key Financial Record 402, which is the account that is liable for the group however, that Key Financial Record 402 is not directly linked to any of the Dependent Financial Records, nor are any of the Dependent Financial Records linked to any other Dependent Financial Records. Therefore, [appellant concludes], there is no parent/child relationship between the accounts. *Id at 9*. As noted above, Blagg clearly discloses appellant’s exact scenario in paragraph 0069 and Table 1 describing a parent/child embodiment.

Furthermore, since Appellant recites optional language “or” as part of the system, the examiner need only show that either of the recited options is anticipated by the cited reference. Optional or conditional elements do not narrow the claims because they can always be omitted. See *e.g.* MPEP §2106 II C:

Moreover, the Federal Circuit recently affirmed the Board’s claim construction holding that language that suggest or makes optional but does not require steps to be performed or does not limit a claim to a particular structure does not limit the scope of a claim or claim limitation. *In re Johnston*, 435 F.3d 1381, 77 USPQ2d 1788, 1790 (Fed. Cir. 2006). In fact, the optional language decided in the case was the term “may”, as recited in Appellant’s claim. The court held that “[a]s a matter of linguistic precision, optional elements do not narrow the claim because they can always be omitted.” *Id.* Accordingly, since the last two elements of claim 1 are merely optional utilizing the term “may”, they fail to limit the claim, can be omitted and need not be considered by the Board. Although Appellant has recited the claim in language that merely

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makes the elements of claim 1 optional, the cited reference nevertheless anticipates each and every element of the claim (see Table below).

Claim 1**Blagg et al., 2003/0120571 A1**

one or more master purchasing card accounts linked to a bank account	Key account linked to dependent account; ¶0055-0056, 0069, 0072, linking accounts; ¶0062, issuer is typically a financial institution or bank
one or more subordinate purchasing card accounts linked to one of said master purchasing card accounts OR to other subordinate purchasing card accounts linked, directly or indirectly, to one of said master purchasing card accounts	One or more dependent account linked to a key account; ¶0071-0075, 0090-0094, dependent linked accounts; see Figure 2.
wherein the owner of said bank account MAY authorize the transfer of funds to any master purchasing card account to cover purchases made using that master purchasing card account OR any subordinate purchasing card account linked to that master purchasing card account and	Applying remainder to key account, Fig 8A, 806; see also ¶0035; 0075-0078, 0134-0142.
wherein the owner of any of said purchasing card accounts MAY authorize the movement of funds from its own account to any subordinate purchasing card account having a link thereto	Authorizing a transaction; ¶0134-0142, 0143-0154, 0144, applying a payment.

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Key Claim Interpretations:*Claim 1**Blagg*

master purchasing account	=	key account
bank account	=	dependent account
subordinate purchasing account	=	dependent account
owner	=	owner of key account

Claim 2

Appellant relies on arguments for claim 1 (brief at 12). Appellant's use of optional terminology "**can**" fails to limit the claim and therefore shall be omitted from consideration.

Claim 3

Appellant's use of optional terminology "**may**" fails to limit the claim and therefore shall be omitted from consideration.

Claim 4

Appellant's use of optional terminology "**can**" fails to limit the claim and therefore shall be omitted from consideration.

Claim 5

As per appellant's argument that the reference fails to disclose use of the claimed subject matter over the Internet, paragraph 0058 discloses that a distributed computer system can be used to implement the invention.

Claims 7-8

Claim 7 recites a "software application running on a computer" as disclosed in paragraph [0058]. Appellant's use of optional terminology "**may**" fails to limit claim 8 and therefore shall be omitted from consideration.

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Claim 9

Appellant's contention that no reference to encrypting and decrypting for purposes of securing communication is made with outside entities is without merit (response p. 14). In order for an approval to be made to authorize a transaction, a secure message has to be sent to the banking entity to check the account user's credit limit and upon authorization, such approval must be sent back to the requesting entity.

Claim 11

Appellant's contention that the cited reference utilizes a computer to communicate information yet fails to disclose a software application is inconsistent and flawed (brief at 14).

Claim 12

Appellant's argument that the reference fails to anticipate that funds can be transferred between accounts is not persuasive. As per the embodiment and parent/child/family example in the cited reference, "the cardholders may be related and the payments may be made from family funds, but each account is still processed independently [0065]."

Claim 13 & 15

Appellant's argument that the reference fails to disclose the software application establishing communication with the credit card processor, the examiner submits that the issuer without such communication cannot accomplish a credit card/limit approval and authorization.

Claim 14

Appellant's use of optional terminology "**can**" fails to limit the claim and therefore shall be omitted from consideration.

Claims 6, 24, 28

Appellant concedes, "identification of users via voice recognition is well known in the prior art (brief at 17)." In response to applicant's argument that even though the above noted limitation is well known in the art, the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, contrary to Appellant's contention, the object of Madan's invention is to utilize voice recognition technology to facilitate a efficient and rapid financial electronic transaction, i.e., stock purchases (column 1, lines 11-14).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

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For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,




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